

REMARKS

Applicant respectfully requests reconsideration. Claims 1-18 were previously pending in this application. Claim 1 is amended herein without prejudice or disclaimer. As a result, claims 1-18 are still pending for examination with claim 1 being an independent claim. Basis for the amendment to claim 1 can be found throughout the application as filed. No new matter has been added.

Rejection Under 35 U.S.C. §102

Claims 1 and 14-18 were rejected under 35 U.S.C. §102(e) as being anticipated by Perkins et al. (US Patent Number 6,287,290).

Applicant respectfully submits that the disclosure of Perkins et al. differs from the invention as presently claimed in independent claim 1 and dependent claims 14-18. Perkins et al. reports on methods for partially collapsing a segment of a lung by aspirating the segment and optionally applying external pressure “on the segment to assist in complete collapse” as stated in the Abstract of US Patent No. 6,287,290. Perkins et al. also reports delivering material to block an air passage leading to a collapsed region of a lung. In contrast, the invention as presently claimed in claim 1 and dependent claims 14-18 relates to introducing an anti-surfactant into a diseased alveolar region of a lung to reduce the volume of the diseased alveolar region (e.g., to promote collapse of the diseased region and/or to promote adhesion, fibrosis, or scarring within the diseased region).

Perkins et al. fails to teach or even suggest introducing material into a diseased alveolar region of a lung to reduce the volume of the diseased alveolar region. The Office Action pointed to column 10, lines 37 etc. of Perkins et al. for a disclosure of biological material introduced to reduce the volume of the lung. However, Applicant respectfully submits that this section of Perkins et al. reports delivering material to an air passage leading to a collapsed region of a lung for “sealing or occluding the air passage leading to the collapsed tissue region” (see column 10, lines 37-39). Perkins et al. further reports delivering a plug of material to “fully occupy and plug the air passage into the collapsed lung tissue region” (see column 10, lines 54-58 and Figure 11), wherein the

collapsed lung tissue region was collapsed by aspiration (see column 10, lines 47-54). Therefore, Perkins et al. reports using certain material to occlude an air passage leading into a collapsed lung region, but Perkins et al. fails to disclose introducing an anti-surfactant into a diseased alveolar region in order to reduce the volume of the diseased region.

Accordingly, withdrawal of the rejection of claims 1 and 14-18 under 35 U.S.C. §102(e) is respectfully requested.

Rejection Under 35 U.S.C. 103

Claim 13 was rejected under 35 U.S.C. §103(a) as being anticipated by Perkins et al. in view of Edwardson et al. (US Patent Number 5,739,288). Claims 2-12 were rejected under 35 U.S.C. §103(a) as being anticipated by Perkins in view of Edwardson in further view of Antanavich et al. (US Patent Number 5,814,022).

Applicant respectfully submits that Edwardson et al. and Antanavich et al. fail to overcome the shortcomings of Perkins et al. In particular these additional references both fail to teach or suggest introducing an anti-surfactant to a diseased alveolar region of a lung to promote collapse of the diseased alveolar region, wherein one portion of the diseased alveolar region adheres to another portion of the diseased alveolar region, thereby reducing the patient's lung volume. Therefore, the cited references, taken alone or in combination, fail to teach or suggest all of the claimed elements of claims 2-12 or 13.

Accordingly, withdrawal of all the rejections under 35 U.S.C. §103 is respectfully requested.

Rejection Under 35 U.S.C. 103

Claims 1-3, 13 and 15 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14, 15, 22, 23, 31, 55, 60 of co-pending Application No. 10/069,307.

Applicant respectfully requests that this rejection be held in abeyance since the co-pending claims have not yet been allowed.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: August 28, 2007

Respectfully submitted,

By Pat R.H. Waller

Patrick R.H. Waller

Registration No.: 41,418

WOLF, GREENFIELD & SACKS, P.C.

Federal Reserve Plaza

600 Atlantic Avenue

Boston, Massachusetts 02210-2206

(617) 646-8000